

REMARKS

Claims 1-33 are pending, with claims 12-29 and 31-33 having been withdrawn from further consideration. Applicants have amended claims 1 and 2 to define Applicant's invention with greater particularity. The amendments do not raise any issues of new matter and the amended claims do not present new issues requiring further consideration or search. Accordingly, upon entry of this communication, claims 1-11 and 30 will be under consideration.

Election/Restriction

On page 2 of the Office Action, the Examiner indicates that claims 12-33 are withdrawn from further consideration, as being drawn to a non-elected invention and species. However, in the Restriction Requirement mailed December 23, 2005, claim 30 was included in Group I. Applicants elected Group I and further elected a non-aqueous solvent, provided it is not ethanol or butanol as a species. Applicants submit that claim 30 is directed to use of the non-aqueous solvents hexane, dichloromethane and/or chloroform. Accordingly, claim 30 is currently pending.

Objection to the Specification

Applicants respectfully traverse the objection to the Specification as allegedly containing an embedded hyperlink. However, in order to reduce the issues and further prosecution, Applicants have amended paragraph [0083] to identify the world wide web sites without hyperlinks. Withdrawal of the objection is respectfully requested.

Rejection under 35 U.S.C. §112, Second Paragraph

Applicants respectfully traverse the rejection of claim 2 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicants have amended claim 2 to recite "receptor bioactives". Support for the amended claim language may be found, among others, at paragraph [0041], which provides examples of the s/n receptor bioactives. Applicants

submit that one of skill in the art would understand that the term “enrich” means “to add nutrients to” (see www.dictionary.com). However, in order to reduce the issues and further prosecution, Applicants have amended claim 2 to replace the term “enriched” with “comprising”. Accordingly, withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. §102

Applicants respectfully traverse the rejection of claims 1-3, 5-7, 10 and 11 under 35 U.S.C. §102 as allegedly being anticipated by Yim et al. (hereinafter “Yim”). Specifically, the Examiner alleges that Yim teaches extracting plants with methanol to isolate their pharmaceutical components. In order to reduce the issues and further prosecution, Applicants have amended claim 1 to limit the claimed extracts to a hexane extract, a dicholomethane extract or a chloroform extract. Anticipation under 35 U.S.C. § 102(b) requires that the reference recite each and every element of the claims in a single document. Since Yim is absolutely silent with regard to a hexane extract, a dicholomethane extract or a chloroform extract, Applicants respectfully submit that Yim fails to anticipate the invention as claimed under 35 U.S.C. § 102 (b). Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Applicants respectfully traverse the rejection of claims 1-7, 10 and 11 under 35 U.S.C. §102 as allegedly being anticipated by Toda et al. (hereinafter “Toda”). Specifically, the Examiner alleges that Toda teaches extracting *A. membranaceus* with methanol and ether to isolate various isoflavones. In order to reduce the issues and further prosecution, Applicants have amended claim 1 to limit the claimed extracts to a hexane extract, a dicholomethane extract or a chloroform extract. Anticipation under 35 U.S.C. § 102(b) requires that the reference recite each and every element of the claims in a single document. Since Toda is absolutely silent with regard to a hexane extract, a dicholomethane extract or a chloroform extract, Applicants respectfully submit that Toda fails to anticipate the invention as claimed under 35 U.S.C. § 102 (b). Accordingly, reconsideration and withdrawal of the rejection are respectfully requested..

Rejection under 35 U.S.C. §103

Applicants respectfully traverse the rejection of claims 1, 3, 5, 8 and 9 under 35 U.S.C. 103(a) as allegedly being unpatentable over Yim. As discussed above, in order to reduce the issues and further prosecution, Applicants have amended claim 1 to limit the claimed extracts to a hexane extract, a dicholomethane extract or a chloroform extract. Applicants submit that Yim is absolutely silent with regard to a hexane extract, a dicholomethane extract or a chloroform extract. Thus, one of skill in the art would not have expected to obtain the claimed invention in view of Yim.

Applicants further submit that one of skill in the art, in view of Yim, would have the burden of undergoing undue experimentation to determine solvents other than methanol which would work successfully to arrive at the present invention. Thus, one of skill in the art would not be motivated to use any solvent other than methanol for the extraction. Accordingly, withdrawal is respectfully requested.

Applicants respectfully traverse the rejection of claims 1, 3, and 4 under 35 U.S.C. 103(a) as allegedly being unpatentable over Yim in view of Toda. The deficiencies identified in Yim apply equally here. Applicants submit that Toda does not cure these deficiencies. The Examiner alleges that Toda teaches various flavonoids with antioxidant activity. Toda is absolutely silent with regard to a hexane extract, a dicholomethane extract or a chloroform extract. Thus, one of skill in the art would not have expected to obtain the claimed invention in view of Yim and Toda. Even if one were motivated to combine Yim and Toda, the resulting combination would yield an extract of methanol in combination with the flavinoids of Toda.

Applicants further submit that one of skill in the art, in view of Yim and Toda, would have the burden of undergoing undue experimentation to determine solvents other than methanol which would work successfully to arrive at the present invention. Thus, one of skill in the art would not be motivated to use any solvent other than methanol for the extraction. Accordingly, withdrawal is respectfully requested

In re Application of:
Yong et al.
Application No.: 10/727,020
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Atty Docket No.: LLOYD1100

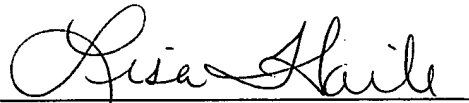
Conclusion

In summary, for the reasons set forth herein, Applicants submit that claims 1-11 clearly and patentably define the invention, and respectfully request that the Examiner withdraw all rejections and pass the application to allowance. If the Examiner would like to discuss any of the issues raised in the Office Action, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

Check number 582590 in the amount of \$60.00 is enclosed as payment for the one-month Petition for Extension of Time fee in connection with filing this Response. No other fee is deemed necessary. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 07-1896 referencing the above-identified attorney docket number. A duplicate copy of the Transmittal Sheet is enclosed.

Respectfully submitted,

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